

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CITY OF PONTIAC GENERAL EMPLOYEES'
RETIREMENT SYSTEM, Individually and on Behalf of All
Others Similarly Situated,

No. 11 Civ. 5026 (JSR)(RLE)

ECF CASE

Plaintiff,

vs.

LOCKHEED MARTIN CORPORATION, ROBERT
STEVENS, BRUCE TANNER and LINDA GOODEN,

Defendants.
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**DECLARATION OF JOHN M. HILLEBRECHT PURSUANT TO
OCTOBER 1, 2012, HEARING AND IN FURTHER SUPPORT OF
DEFENDANTS' MOTION FOR RECONSIDERATION OR SUMMARY JUDGMENT**

John M. Hillebrecht hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am admitted to practice before this court and am a partner of the law firm DLA Piper LLP (US), attorneys for Lockheed Martin Corporation ("Lockheed Martin"), Robert Stevens, Bruce Tanner, and Linda Gooden (collectively, the "Defendants"). I submit this declaration in connection with today's briefing related to the October 1, 2012, evidentiary hearing and in further support of Defendants' Motion For Reconsideration or Summary Judgment.

2. Defendants' Memorandum of Law submitted herewith contains the following abbreviations and/or defined terms:

- a. References to Exhibits ("Ex.") are to the exhibits annexed to this Declaration.
- b. References to "7/16/12 Mem. Op." are to the Court's Memorandum Opinion, entered on July 16, 2012 [Dkt. No. 74], concerning Defendants' motion to dismiss.

- c. References to “Def.’s SJ Br.” are to Defendants’ Memorandum of Law in Support of Their Motion for Summary Judgment, filed on June 25, 2012 [Dkt. No. 70].
- d. References to “Pl.’s SJ Opp. Br.” are to Plaintiff’s Memorandum of Law in Opposition to Defendants’ Motion for Summary Judgment, filed on July 19, 2012 [Dkt. No. 75].
- e. References to “Def.’s SJ Reply” are to Defendants’ Reply Memorandum of Law in Further Support of Their Motion for Summary Judgment, filed on July 24, 2012 [Dkt. No. 81].

3. Attached hereto as Exhibit A is a chart setting forth a comparison of the statements Robbins Geller claims were made by the various confidential witnesses (“CWs”), as contained in the Amended Complaint, and the sworn testimony of those witnesses at the October 1, 2012, evidentiary hearing and at their depositions.

4. Attached hereto as Exhibit B are excerpts of the final transcript of the deposition of CW-1 (Margaret Burns), taken on June 13, 2012. The entire transcript was previously submitted to the Court as Exhibit F to the Declaration of John M. Hillebrecht in Support of Defendants’ Motion for Summary Judgment, dated June 25, 2012 (“June 25 Hillebrecht Declaration”).

5. Attached hereto as Exhibit C are excerpts of the final transcript of the deposition of CW-2 (Pamela Hawn), taken on June 11, 2012. The entire transcript was previously submitted to the Court as Exhibit G to the June 25 Hillebrecht Declaration.

6. Attached hereto as Exhibit D are excerpts of the final transcript of the deposition of CW-3 (William Parsons), taken on June 22, 2012. The entire transcript was previously submitted to the Court as Exhibit J to the June 25 Hillebrecht Declaration.

7. Attached hereto as Exhibit E are excerpts of the final transcript of the deposition of CW-4 (Victor Morrison), taken on June 12, 2012. The entire transcript was previously submitted to the Court as Exhibit H to the June 25 Hillebrecht Declaration.

8. Attached hereto as Exhibit F are excerpts of the final transcript of the deposition of CW-5 (Kenneth Asbury), taken on June 13, 2012. The entire transcript was previously submitted to the Court as Exhibit I to the June 25 Hillebrecht Declaration.

9. Attached hereto as Exhibit G is a true and correct copy of the affidavit of CW-2 (Pamela Hawn), executed on May 15, 2012.

10. Attached hereto as Exhibit H are excerpts of the final transcript of the deposition of Linda Gooden, taken on October 8, 2012.

11. Attached hereto as Exhibit I are excerpts of the final transcript of the deposition of Richard Bott, taken on September 28, 2012.

12. Attached hereto as Exhibit J are excerpts of the final transcript of the deposition of John Mollard, taken on August 23, 2012.

13. Attached hereto as Exhibit K are excerpts of the final transcript of the deposition of Jeffrey Auletto, taken on September 14, 2012.

14. Attached hereto as Exhibit L is a true and correct copy of the affidavit of Catherine L. Lerche, executed on October 15, 2012.

15. Attached hereto as Exhibit M is a true and correct copy of the affidavit of David S. Valore, executed on July 24, 2012.

16. Attached hereto as Exhibit N are excerpts of the final transcript of the deposition of Ken Keatly of L.R. Hodges & Associates, taken on July 16, 2012. The entire transcript was previously submitted to the Court as Exhibit W to the Declaration of John M. Hillebrecht in Further Support of Defendants' Motion for Summary Judgment, dated July 24, 2012.

17. Attached hereto as Exhibit O is a copy of the L.R. Hodges & Associates Investigative Memorandum regarding Pamela Hawn, dated September 30, 2011.

18. Attached hereto as Exhibit P is a copy of the L.R. Hodges & Associates Investigative Memorandum regarding Margaret (Peggy) Burns, dated September 15, 2011.

19. Attached hereto as Exhibit Q is a copy of the L.R. Hodges & Associates Investigative Memorandum regarding William Parsons, dated September 15, 2011.

20. Attached hereto as Exhibit R is a copy of the L.R. Hodges & Associates Investigative Memorandum regarding Victor Morrison, dated September 20, 2011.

21. Attached hereto as Exhibit S is a true and correct copy of excerpts from the transcript of the evidentiary hearing held in this matter on October 1, 2012.

22. Attached hereto as Exhibit T is a true and correct copy of excerpts from the transcript of the summary judgment hearing held in this matter on July 25, 2012.

23. Attached hereto as Exhibit U is a true and correct copy of excerpts from the transcript of the class certification hearing held in this matter on June 20, 2012.

24. Attached hereto as Exhibit V is a true and correct copy of an April 20, 2009, email exchange forwarded by Joe Trench to Ms. Gooden and Jeffrey MacLauchlan, among others, and which bears the Bates range LMC00811907-LMC00811908. The attachment to the cover email, which bears the Bates range LMC00811909-LMC00811910, lists seven Lockheed Martin “red” programs, none of which are IS&GS programs.

25. Attached hereto as Exhibit W is a true and correct copy of the April 13, 2009, IS&GS CFO Financial Review of 1st Quarter 2009 performance, which bears the Bates range LMC00190887-LMC00190972. IS&GS evaluates its financial results by focusing principally on the following five financial metrics: (1) orders; (2) sales; (3) earnings/EBIT; (4) cash; and (5) margins/return on sales. At LMC00190899, no IS&GS programs are listed as “red” programs. At LMC00190892, IS&GS reported that it was on track to exceed its 2009 external guidance and

to achieve \$1202 million EBIT for 2009.

26. Attached hereto as Exhibit X is a true and correct copy of the May 13, 2009, IS&GS CFO Financial Review of April 2009 performance, which bears the Bates range LMC00281292-LMC00281353. At LMC00281299, IS&GS reported that it was on track to exceed its 2009 external guidance and \$1202 million EBIT for 2009.

27. Attached hereto as Exhibit Y is a true and correct copy of the June 11, 2009, IS&GS CFO Financial Review of May 2009 performance, which bears the Bates range LMC00281025-281078. At LMC00281032, IS&GS reported that it was expected to achieve \$1202 million EBIT for 2009.

28. Attached hereto as Exhibit Z is a true and correct copy of a July 9, 2009, email exchange from Mark Sherrard to Belinda Messinese attaching a July 9, 2009, Earnings & Cash Update, which bears the Bates range LMC00309428 to LMC00309508. At LMC00309439, Civil achieved \$75 million in EBIT for the second quarter and had a Long Range Plan (“LRP”) target of \$78 million. At LMC00309440, Civil achieved \$156 million in EBIT for the first half of the year, which was on target year-to-date against Civil’s LRP.

29. Attached hereto as Exhibit AA is a true and correct copy of an April 17, 2009, Information Systems & Global Services 1st Quarter 2009 Performance Review, which bears the Bates range LMC00394992 to LMC00395016. At LMC00394994, IS&GS did not have any “red” programs and its first quarter EBIT outlook exceeded the LRP target by \$1 million.

30. Attached hereto as Exhibit BB is a true and correct copy of a May 6, 2009, email from Linda Gooden to Kenneth Asbury, Michael Dignam, William Graham, Myles Crandall, John Mengucci, Michael Thomas, Jeffrey MacLauchlan and Howard Ruddell, which bears the Bates label LMC00541592.

31. Attached hereto as Exhibit CC is a true and correct copy of a May 8, 2009, email exchange between Linda Gooden and Kenneth Asbury, Richard Bott, Jeffrey MacLauchlan and Howard Ruddell, which bears the Bates label LMC00512599.

32. Attached hereto as Exhibit DD is a true and correct copy of a May 8, 2009, email from Michael Thomas to Linda Gooden, which bears the Bates label LMC00022865.

33. Attached hereto as Exhibit EE is a true and correct copy of a May 8, 2009, email exchange between Linda Gooden and John Mengucci and Gerald McNeff, which bears the Bates label LMC00022868.

34. Attached hereto as Exhibit FF is a true and correct copy of a May 8, 2009, email from William Graham to Linda Gooden, which bears the Bates label LMC000208325.

35. Attached hereto as Exhibit GG is a true and correct copy of a May 7, 2009, email exchange between Linda Gooden and Myles Crandall, Jeffrey MacLauchlan, Robert Kramer and Howard Ruddell, which bears the Bates label LMC00022869.

36. Attached hereto as Exhibit HH is a true and correct copy of a June 25, 2009, email exchange between Messrs. Stevens and Tanner, which bears the Bates label LMC00010963. In the exchange, Mr. Tanner informed Mr. Stevens that he “would rather that [Mr. Stevens] not be **surprised** at the preliminary second quarter data I will be showing tomorrow.” Mr. Stevens responded by asking for an explanation of the conditions that lead to the shortfall.

37. Attached hereto as Exhibit II is a true and correct copy of a June 28, 2009, email exchange between Ms. Gooden and Mr. Stevens, which bears the Bates range LMC00006890-LMC00006891. In the exchange, Ms. Gooden informed Mr. Tanner that she had “reviewed the IS&GS preliminary numbers for 2Q and this is going to be a disappointing quarter from a number of perspectives.” Mr. Stevens responded that he and Mr. Tanner would “need an in

depth understanding of the conditions that have brought us here.” Ms. Gooden responded that neither she nor Mr. Stevens should have been “**surprised** like this.”

38. Attached hereto as Exhibit JJ is a true and correct copy of a June 29, 2009, email exchange between Messrs. Stevens and Tanner, which bears the Bates range LMC00006888-LMC00006889. In the exchange, Mr. Stevens forwarded a “blind” copy of his June 28, 2009, email to Ms. Gooden, noting “the need we have to get both a plan for the future and a story as to why we are here.” Mr. Tanner responded, indicating that he had asked Jeffrey MacLauchlan for a similar explanation of the conditions that led to IS&GS’s 2Q09 shortfall.

39. Attached hereto as Exhibit KK is a true and correct copy of an October 28, 2008, email from Josh Baker to Linda Gooden attaching the Information Systems & Global Services 2009 Long Range Plan, which bears the Bates range LMC00016828 to LMC00016869. At LMC00016834, the LRP is indicated as being predicated on a 60% “win rate.”

40. Attached hereto as Exhibit LL is a true and correct copy of the Civil 2009 Tactical Plan, dated February 16, 2009, which bears the Bates range LMC00046226 to LMC00046248. At LMC00046236, the Civil Product Line details its plan to address the \$55 million EBIT challenge.

41. Attached hereto as Exhibit MM is a true and correct copy of a February 17, 2009, email exchange between Messrs. Asbury and Parsons, which bears the Bates range LMC00818137 to LMC0081838.

42. Attached hereto as Exhibit NN is a true and correct copy of an April 9, 2009, email from Kenneth Asbury to Barbara Humpton, Daniel Courain, Sandra Samuel, Rick Hieb, Andy Patrichuk, Darrell Graddy, Peggy Burns, Robert Davis and Thomas Grumbly, among others, which bears the Bates label LMC0023165.

43. Attached hereto as Exhibit OO is a true and correct copy of the September 21, 2012, letter from Michael N. Levy, Esq. to the Court.

44. Attached hereto as Exhibit PP is a true and correct copy of the telephone log of Ken Keatly of L.R. Hodges & Associates, which bears the Bates label PONTIAC015484.

45. Attached hereto as Exhibit QQ is a copy of the Order entered on October 4, 2012, in the case captioned Belmont Holdings Corp. v. SunTrust Banks, Inc., No. 09-cv-1185-WSD (N.D. Ga.).

I declare under penalty of perjury that the foregoing is true and correct.

Executed: New York, New York
October 15, 2012

/s/ John M. Hillebrecht
John M. Hillebrecht